Remarks

The claims are 1-12.

I. Rejections Under 35 USC 112

The claims have been rejected as allegedly not described in the specification to enable one in the art to make/use the invention. The Examiner asserts that it is well known that a given compound, at a given concentration will either inhibit or stimulate receptor activity but not both at the same time. The Examiner refers to Table 1 of the specification. Applicants respectfully submit that the claims are to modulating the activity of excitatory amino acid receptors. Table 1 shows the ease by which the direction of modulation is easily performed. Further, reference U.S. 5,574,036 cited by the Examiner describes at col. 6 lines 51-62 how different compounds within the general class will exhibit an agonist or antagonist activity in respect to mice embryonic teratocarcinoma cell differentiation. Thus, such behavior is not uncommon and routinely determined as part of normal pharmaceutical experimentation.

The Examiner would have complete clinical trials before patentability is determined. However, such is not the standard. One of ordinary skill in the pharmaceutical industry and art readily understands how to make and/or use the invention from the above disclosures, using experimentation routinely and commonly performed. The length and amount of experimentation, in and of themselves, do not rise to the level of undue experimentation if the industry and art routinely and commonly perform experiments to such lengths and number. As respectfully submitted earlier, the skilled artisan in the pharmaceutical arts well understands how to make/use the invention, particularly in light of the specification's disclosure of the subject being treated described at page 17, lines 8-17; the formulation of the dosage form described at page 18, line 3 to page 20, line 30, including specific dosages recited at page 20, lines 28-30; the particular disease state or condition described at page 17, line 18 to page 18, line 2; the therapeutic threshold described by assays at page 21, lines 13-29, followed by testing procedures routinely and commonly used in the pharmaceutical arts and industry; and the mode of administration described at page 18, lines 3-13.

Accordingly, Applicants respectfully submit that the rejections have been overcome and request their withdrawal.

II Rejections Under 35 USC 102 and 103

The claims have been rejected as allegedly anticipated or made obvious by U.S. Patent No. 5,574,036 (the '036 reference) or U.S. Patent No. 6,150,413 (the '413 reference). Applicants respectfully submit that neither the '036 reference or the '413 reference anticipates or makes obvious the claims, as presently amended.

Neither the '036 reference or the '413 reference includes the thiazolyl **A** group presently required by independent claims 1, 4, 9, and 11. Accordingly, Claims 1, 4, 9, and 11 are not anticipated by the '036 or '413 references. Claims 2-3, 5-8, 10 and 12, depending from the independent claims, are also not anticipated by the '036 or '413 references for that reason as well as for the additional limitations they contain.

The '036 or '413 references do not describe, disclose, suggest, teach, or motivate the thiazolyl compounds of the present application as claimed in independent claims 1, 4, 9, and 11, or their use to mediate excitatory neurotransmitter metabotropic glutamate receptors of the mammalian central nervous system. Accordingly, the '036 or '413 references do not make obvious independent claims 1, 4, 9, and 11. Claims 2-3, 5-8, 10 and 12, depending from the independent claims, are also not made obvious for that reason as well as for the additional limitations they contain.

Applicants respectfully submit that the rejections have been overcome and request their withdrawal.

Conclusion

Applicants respectfully submit that the application is in condition for allowance and request a Notice to that effect. Attorney for Applicants can be reached at the telephone number and address below. Correspondence should be sent to the address below.

Any additional fees or deficiency in fees required should be taken from Merck Deposit Account No. **13-2755**.

Respectfully submitted,

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date appearing below.

MERCK & CO., INC.

By Shu M. Lee Date Jan 9, 2002

By 

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Date: January 9, 2002